

MINUTES
UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD MEETING
Utah Department of Environmental Quality
168 North 1950 West, Building #2, (Conf. Room 101), SLC, Utah

January 13, 2005

Board Member Present: Craig Anderson (Chair), John Newman (Vice-Chair), Michael Brehm, Carlton Christensen, Kory Coleman, David Cunningham, William Doucette, Craig Forster, Judy Lever, Dianne Nielson, Lowell Peterson, Scott Widmer.

Staff Members Present: Dennis Downs (Executive Secretary), Brad Johnson (Executive Secretary UST), Scott Anderson, Ed Costomiris, Martin Gray, Rusty Lundberg, Dale Marx, Brad Maulding, Rick Page, Don Verbica, Otis Willoughby, Raymond Wixom.

Others Present: Tye Rogers, George Gooch, Chris Falkenberg, Kris Snow, Elizabeth Lowes, Trace Salmon, Shane Whitney, Loren Allen, Richard Rathbun, James Holtkamp, Tim Orton, Clint Warby, John Tanner, Sam McClatchey.

I. The meeting was called to order at 1:05 p.m.

II. It was motioned by John Newman and seconded by William Doucette and unanimously carried that the December 9, 2004 Board Meeting minutes be approved with one correction. Correction made on Page 7, Section VII, A. Dugway Proving Ground, (mis-spelled word) change non-carcigen to non-carcinogen.

III. Underground Storage Tanks Update

Brad Johnson informed the Board members that on December 15, 2004, the Division of Environmental Response and Remediation (DERR) met with approximately 40 Underground Storage Tank (UST) Certified Consultants to discuss the status of the Petroleum Storage Tank (PST) Fund. The two main issues that were discussed during the meeting were cleanup standards being put into rule and how to deal with consultant-designed equipment. The DERR received a number of suggestions from the consultants regarding these issues and as such, will be moving forward over the next few months to put together rules that will go out for public comment and then back to the Board for final approval. Some consultants expressed frustration with the PST Fund. To deal with these frustrations, the DERR will be working with the consultants on some administrative changes that will help things flow better, specifically with work plans and how the DERR communicates with the owner/operator. As a result of having this consultant's meeting, the meeting scheduled with the Utah Underground Storage Tank Advisory Task Force (UST Task Force) had to be pushed back. It is anticipated that the UST Task Force will convene in late February or early March. In that meeting, the DERR will take suggestions regarding the rule changes to get broader input regarding the issues at hand.

Mr. Johnson referred the Board members to the UST Update table that was distributed in the packet sent out previously. The cash balance for the PST Fund has decreased by approximately \$400,000.00, and according to the actuarial study, there are only a few years left before the cash balance becomes negative.

Mr. Johnson also informed the Board members that in the future, an update on the Clandestine Drug Lab Bill will be included as a regular item on the Board meeting agenda. It is the responsibility of the DERR to oversee the contract certification aspects of the Clandestine Drug Lab Bill. Proposed rule changes were sent out recently to a broad stakeholders group in order to get feedback on the rules. Their comments and/or feedback have been requested by the end of January 2005. Once the DERR has reviewed all of the comments received, the rules will then be brought to the Board for approval.

Craig Anderson asked about the schedule for the rule changes regarding the PST Fund. Mr. Johnson anticipated that they will be brought to the Board in the spring of 2005 for approval to go out for public comment.

IV. Hazardous Waste Facilities

ATK Thiokol Inc., request for a variance from the Utah Hazardous Waste Management Rules (Board Action Item)

Brad Maulding reviewed the information regarding the ATK Thiokol Inc., Bacchus Works facility's request for a variance from the Utah Hazardous Waste Management Rules previously presented to the Board at their December 9, 2004 Board Meeting.

The public comment period for the variance request began on November 25, 2004 and ended on January 10, 2005. No comments were received. A public hearing was held on January 5, 2005 and no comments were received. In addition, Magna Area Council members requested a presentation regarding the variance request, and no formal comments were received.

The Division has determined that this request for a variance is complete and recommends approval from the Board.

William Doucette asked how much HMX is in a filter sock. It was stated that the filter socks contain approximately one to two pounds of HMX.

It was motioned by John Newman and seconded by Carlton Christensen and unanimously carried that the ATK Thiokol Inc., Bacchus Works, October 27, 20004, request for a variance from the Utah Hazardous Waste Management Rules be approved.

V. Commercial/Federal Facilities

A. Change of Ownership at Envirocare (Informational Item)

Dennis Downs informed the Board that Mr. Khosrow Semnani, current President and CEO of Envirocare, would no longer be associated with Envirocare. Mr. Steve Cramer will be the new President and CEO of Envirocare once the transaction officially takes place. No staffing changes will be made. This administrative change does not change any of the current regulatory requirements with which Envirocare must comply. The same level of oversight will continue and all permit requirements for Envirocare will remain in place.

Michael Brehm asked if there will be any procedural or statutory issues that the Department may have to address related to this transfer. Raymond Wixom stated that the permittee as it exists now, will remain the same permittee after the transfer of ownership. Mr. Wixom stated there may be some type of internal reorganization such as name changes for points of contact or changes regarding individuals authorized to sign documents, etc., however, he is not aware of any major procedural changes. Judy

Lever asked about the timeframe for the transaction to be complete. Mr. James Holtkamp, Counsel for Envirocare, stated that the transfer would take place on or around January 31, 2005. At that point, Mr. Khosrow Semnani will disassociate himself from Envirocare. Judy Lever asked if there are bonds or financial assurance issues that would be impacted? Mr. Downs stated that Envirocare will still have to maintain a financial insurance mechanism. Mr. Holtkamp stated that all of Envirocare's current obligations would remain in place. Mr. Holtkamp also stated that a letter has been submitted to Mr. Downs confirming that all obligations will remain in place after the transfer.

**B. Envirocare request for a site-specific treatment variance for waste code U134.
(Informational Item)**

Don Verbica informed the Board that on December 23, 2004, Envirocare submitted a request to the Executive Secretary for a renewal of a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules. The Board had approved a previous variance request for these waste streams on December 17, 2003. The Mixed Waste Facility is proposing to continue receiving two waste streams from a US Department of Energy generator that carry a listed waste code for hydrogen fluoride (U134).

The public comment period for this variance request began on January 11, 2005 and will end on February 9, 2005. A hearing on this variance request will be held on February 1, 2005.

David Cunningham questioned if the debris waste being shipped was contaminated also. Don Verbica stated that the debris waste has the same waste code because it may have come in contact with the contaminated waste. Tim Orton stated that the waste consists of debris generated through the decommissioning of the generator's facilities. This debris has secondarily contacted U1324 waste and therefore carries the U134 hazardous waste code. To be conservative, all the waste debris has been given the waste code U134. Michael Brehm asked if this waste stream is identical to the variance request approved of previously. Mr. Orton stated that the waste streams and the waste generation activities of this variance request are the same as the previous variance request. The waste stream consists of approximately 35,000 cubic feet of waste, and Envirocare has received approximately 13,000 cubic feet of the waste to date.

**C. Envirocare request for a site-specific treatment variance for waste code D005
(Board Action Item)**

Don Verbica reviewed the information regarding Envirocare's request for a site-specific treatment variance for waste code D005 that was presented to the Board at their December 9, 2004 Board Meeting. This variance request seeks authorization to macroencapsulate a waste stream that carries waste code D005.

The public comment period for the variance request began on November 16, 2004 and ended on December 16, 2004. No comments were received. A public hearing was held on December 2, 2004 and no comments were received.

The Division has determined that this request for a variance is complete and recommends approval from the Board.

It was motioned by William Doucette and seconded by Judy Lever and unanimously carried that Envirocare's, November 9, 2004, request for a site-specific treatment variance for waste code D005 (Barium) be approved.

**D. Envirocare request for a site-specific variance for waste code D009
(Board Action Item)**

Don Verbica reviewed the information regarding Envirocare's request for a site-specific treatment variance for waste code D009 that was presented to the Board at their December 9, 2004 Board Meeting. This variance request seeks authorization to stabilize a waste stream that carries waste code D009 (High Mercury – Subcategory Inorganic).

The public comment period began on November 16, 2004 and ended on December 16, 2004. No comments were received. A public hearing was held on December 2, 2004 and no comments were received.

The Division has determined that this request for a variance is complete and recommends approval from the Board.

Judy Lever asked for clarification regarding the difference between macroencapsulation and microencapsulation. Otis Willoughby stated that macroencapsulation is a process that completely externally coats the waste (typically debris or large items) with a material such as polyethylene or concrete. The microencapsulation process mixes the waste with polyethylene so as to coat the individual molecules of the waste. (Clarification for the record, macroencapsulation is associated with waste code D005, the matter currently before the Board is waste code D009 (High Mercury – Subcategory Inorganic)).

It was motioned by Carlton Christensen and seconded by William Doucette and unanimously carried that Envirocare's, November 8, 2004, request for a site-specific treatment variance for waste code D009 (High Mercury – Subcategory Inorganic) be approved.

**E. Stipulation and Consent Order between the Board and Clean Harbors Grassy Mountain
(Board Action Item)**

Lowell Peterson declared a conflict of interest and recused himself from this matter.

Don Verbica reviewed the proposed Stipulation and Consent Order (SCO) for Clean Harbors Grassy Mountain Facility, L.L.C., to resolve Notice of Violation No. 040080203 that was presented to the Board at their December 9, 2004 Board Meeting.

The public comment period for the SCO began on November 23, 2004 and ended on December 23, 2004. No comments were received.

The violations have been resolved and the Division recommends that the Board approve the SCO.

David Cunningham questioned if historically the facility has not met their required timesframes. Ed Costomiris stated that this was a unique situation as Clean Harbors Grassy Mountain's Environmental Manager had left and they were in the process of filling the vacant position.

It was motioned by Scott Widmer and seconded by Michael Brehm and unanimously carried that the Clean Harbors Grassy Mountain, L.L.C., proposed Stipulation and Consent Order, No. 0408023, to resolve Notice of Violation No. 0401003, dated April 1, 2004, be approved. Lowell Peterson abstained from voting.

**F. Stipulation and Consent Order between the Board and Tooele Army Depot
(Board Action Item)**

Don Verbica reviewed the proposed Stipulation and Consent Order (SCO) to resolve a Notice of Violation and Compliance Order between the Board and Tooele Army Depot that was presented to the Board at their December 9, 2004 Board Meeting.

The public comment period began on November 23, 2004 and ended on December 23, 2004. No comments were received.

Michael Brehm stated that the timing of the public comment period for these issues was during the holiday season and wanted ensure that the timing was not a factor in the lack of comments being received. Don Verbica stated that the public comment period timeframe did include the month of November. Dennis Downs stated that if the Division receives input from parties that ask for additional time to review issues, the Division would grant them additional time.

It was motioned by Carlton Christensen and seconded by William Doucette and unanimously carried that Tooele Army Depot's, proposed Stipulation and Consent Order (SCO) to resolve a Notice of Violation and Compliance Order, dated December 17, 2003, be approved.

VI. Chemical Demilitarization

TOCDF Update – Martin Gray

Mr. Gray stated that over the past month TOCDF has completed processing the spray tanks, which include the VX agent. TOCDF currently is processing VX mines and has completed processing approximately 1,000 out of 22,000.

CAMDS recently conducted a trial burn using mustard agent and anticipates processing mustard contaminated metals in the near future.

Dennis Downs stated that he has received questions from Board members regarding the status of the chemical demilitarization program nationally. Mr. Downs stated a presentation of the overview of the status of the munitions disposal of the other sites around the country could be presented at the February Board meeting. This information is usually presented at the Citizens Advisory Commission Meetings, but not at this Board meeting. Dianne Nielson stated that the information she has received indicated that 30% of the national stockpile has been destroyed.

Dennis Downs updated the Board regarding the status of the Citizens Advisory Commission (CAC) for the Chemical Demilitarization Program. This commission consisted of a group of individuals appointed by the Governor (Governor Leavitt) to advise the Army on the chemical weapons disposal program at the Deseret Chemical Depot. Mr. Downs represents the DEQ on the CAC. The meetings are held every other month at either the DEQ buildings or in Tooele County. These meetings give the Army the opportunity to provide updates and allow the general public to provide input on the specifics of the chemical demilitarization program outside of the regulatory perspective that this Board has on the program. The CAC is funded by the Army through monies given to the DEQ, which in turn gives the funds to the Department of Community and Economic Development. The State Science Advisor, Michael Keene, was the administrator of the CAC and ensured that all issues were addressed appropriately. Debra Kim is the Chairperson for the CAC. However, with the reorganization of the Department of Community and Economic Development, Mr. Keene is no longer with the agency. Dianne Nielson has been in contact with the Governor Huntsman on how to proceed with the CAC.

There is a potential of coordinating the CAC through the Division of Solid and Hazardous Waste. At this time, the CAC is still a functioning entity, with the exception of Mr. Keene. Mr. Downs anticipates that the CAC will continue to meet, pending any further changes that may occur at the Governor's level.

Carlton Christensen asked what portion of the chemical stockpile has been destroyed at Deseret Chemical Depot (DCD). Martin Gray stated that it is approximately 50%. DCD representatives stated that DCD has approximately 46%-47% of the national stockpile.

Carlton Christensen requested clarification regarding the disposal of landmines, i.e. are there any explosives associated with the disposal, etc. Martin Gray stated that part of the process is to remove part of the explosive, which is sent to a separate deactivation furnace. The process is robotic; individuals are not in the room during this process. The mines are packed with the fuses separately and the fuses are never loaded or armed.

VII. Other Business

Proposed Legislation – Dennis Downs

Dennis Downs provided information on the following bills that impact the Division of Solid and Hazardous Waste programs.

Senate Bill 24 – Waste Amendments, sponsored by Senator Bramble

The Hazardous Waste Task Force recommended this bill. This bill modifies the Environmental Quality Code and the Radioactive Waste Tax Act to amend provisions relating to waste. This bill also requires the Solid and Hazardous Waste Control Board to review and report to the Legislature every five years. In general, this bill contains provisions regarding calculation of waste disposal fees; the adequacy of the amount of financial assurance required for closure and post closure care of a commercial hazardous waste treatment, storage, or disposal facility; whether funds or financial assurance are necessary for perpetual care and maintenance of a commercial hazardous waste treatment, storage, or disposal facility and the scope of the Radiation Control Board's review of the Radioactive Waste Perpetual Care and Maintenance Fund.

In reference to Judy Lever's question regarding the chlorine spill that occurred during transportation to an eastern state, Dennis Downs stated that the State of Utah does not have a legal mechanism that requires companies that haul chemicals to have a bond or trust fund. Most of the transporters have insurance to cover emergencies, etc. Dianne Nielson further clarified that the Department of Environmental Quality has the Hazardous Substance Mitigation Fund. This fund is utilized as the emergency cleanup fund to investigate, contain, clean up and take other necessary action to protect human health and the environment if a hazardous substance release occurs. The Department does cost-recovery for costs involved with the clean up. The Hazardous Substance Mitigation Fund is funded by appropriations of up to \$400,000 annually from the Environmental Quality Restricted Account. Other resources for handling emergency cleanups include the Environmental Protection Agency and their Emergency Response Team.

Carlton Christensen questioned if any waste landfills are beyond their 30-year mark. Dennis Downs stated that there are no facilities that fit into this category. This applies only to the facilities that have waste left in place, such as a landfill. Mr. Downs stated that when an incinerator facility closes, they are required to go through a closure process to ensure that waste is not left on-site.

Michael Brehm questioned whether additional funding was needed to assist with the perpetual care evaluation associated with this bill. Dennis Downs stated that at this point, he does not anticipate that additional funding will be needed.

Senate Bill 27 – Sunset Reauthorizations, sponsored by Al Mansell

This bill reauthorizes certain state entities and programs that would otherwise sunset before the 2006 Annual General Session of the Utah Legislature. The Waste Tire Recycling Act is scheduled to sunset in 2005. The Interim Committee has recommended the waste tire program continue for another five years.

Dennis Downs clarified that a portion of funding comes from the \$1.00 fee individuals are charged when they purchase a new tire. The funds received from the waste tire fees are utilized to administer the program with a majority of the monies received utilized for rebates that are meant to promote tire recycling. Currently, the waste tire fund is healthy.

Carlton Christensen had concerns regarding a particular waste tire recycling facility being relocated and if funds from the waste tire fund could be utilized. Dennis Downs stated that an actuarial review would have to be conducted before this issue can be addressed. The fund currently has approximately \$1,000,000. Mr. Downs stated that there are approximately two million tires sold in the state each year. The DEQ receives approximately \$90,000 annually to administer the program and the balance is utilized for reimbursement of waste tire recyclers, tire transporters, cleanup of waste tire piles, etc.

Judy Lever questioned if the bulk of tires being recycled are being burned for an alternative heat source. Dennis Downs stated that is correct. There are many uses for recycled tires, such as being utilized for fuel instead of coal, intermediate cover at landfills, sports mats, and tracks and athletic fields, etc. Dennis Downs stated that during an upcoming meeting, staff members will provide an update on the waste tire program to the Board.

Senate Bill 81 - Local Government Approval For Solid Non-hazardous and Hazardous Waste Disposal, Sponsored by Beverly Evans

This bill modifies provisions of the Solid and Hazardous Waste Act and clarifies that local government approval of a commercial non-hazardous solid or hazardous waste treatment or disposal facility is required before obtaining legislative and gubernatorial approval.

Currently, commercial facilities must go through the DEQ permitting process and then request approval from their local government, the Legislature and the Governor. At this time, there is nothing in the statutes that states when the local government approval should occur. This bill would require local government approval before legislative approval.

Senate Bill 85, Federal Research Committee, sponsored by Gene Davis.

This bill creates the Federal Research Committee and establishes committee membership, duties, salaries, and designates staff for the committee; prescribes the issues that the committee may study; requires state agencies to supply data, reports, and other information to the committee at no cost to the committee; authorizes the committee to report to federal agencies; and requires the committee to present annual reports to the Legislative Management Committee and the governor. DEQ would be a participant on this committee.

Dennis Downs stated that the Federal Research Committee existed years ago, and did oversee military activities. Dennis Downs stated that the bill does not propose a regulatory role for the committee.

Mr. Johnson explained that another piece of legislation going before the State Legislature is a bill with some proposed amendments regarding Brownfields. However, this bill would not provide any new jurisdiction for the Board. This bill will amend the Voluntary Cleanup Program and give the DERR the ability to give either prospective purchasers of a contaminated property, or an existing landowner who did not contribute to the contamination of a site, the assurance that the DERR would not seek enforcement against them. The property owner would then be able to go and cleanup the site without the worry that they would incur additional liabilities. It also gives the owners the right to pursue other responsible parties. Another portion of the bill will give the DERR the authority to establish a revolving loan fund.

Carlton Christensen asked what the number was for this bill. Mr. Johnson explained that the bill does not have a number, but that Senator Mansell is the sponsor.

Mr. Christensen then asked if the applicant pool for the proposed revolving loan fund would include local or municipal governments, such as redevelopment agencies and small towns. Mr. Johnson stated that it will be actually preferred that local or municipal governments use the fund rather than private parties.

Mr. Anderson asked about the difference was between this bill and the bill that was proposed at the last legislative session. Mr. Johnson explained that it is essentially the same bill from last year, but that more groundwork has taken place to deal with the concerns that were brought up previously.

Craig Anderson thanked Dianne Nielson for the opportunity to allow interested Board members to attend the recent MSWG, Environmental Performance in the Arid Intermountain West Conference held on January 10-11, 2005.

The issue of Board members receiving their Board packet of information electronically was discussed. Many Board members supported this option. The Division staff will look into this issue and review this option to determine what is the most effective way to provide the packet of information to those Board members desiring to receive it electronically.

The next meeting was scheduled for February 10, 2005 at 1:00 p.m., at the DEQ (Conf. Room 101), 168 North 1950 West, (Bldg. #2), SLC, Utah.

The meeting adjourned at 2:12 p.m.